livery. *Held,* one who conducts a business in this way is not a hawker and not subject to the payment of the license tax. *Village of Scribner* v. *Mohr, et al.* (Neb. 1911) 132 N. W. 734.

In this country, 'hawker' and 'peddler' are used as synonyms in statutes regulating the vending of goods. WEBSTER'S NEW INTERNATIONAL DICTIONARY under 'Peddler.' *City of Davenport* v. *Rice,* 75 Ia. 74, 39 N. W. 191, 9 Am. St. Rep. 454. *Commonwealth* v. *Farnum,* 114 Mass. 267. It is generally held that one having a bona fide permanent place of business and, by wagon or otherwise, delivering goods ordered is not a peddler, even though on such trips he takes new orders. *Village of Stamford* v. *Fisher,* 140 N. Y. 187, 35 N. E. 500. *Commonwealth* v. *Eichenburg,* 140 Pa. 158, 21 Atl. 258. *Brenner* v. *Commonwealth,* 9 Ky. L. Rep. 289. *Contra*: *Elizabeth Borough* v. *Braun,* 17 Pa. Co. Ct. R. 257. There is a marked tendency by legislation and judicial decision to enlarge the application of the words, 'peddlers' and 'hawkers.' It is not necessary in order to be a peddler that one should cry or offer his goods for sale upon the street. *People* v. *Baker,* 115 Mich. 199, 73 N. W. 115. *Commonwealth* v. *Ober,* 12 Cush. 493. Courts have generally been ready to enlarge the application of these words where legislative enactment has in any way sanctioned such interpretation. *Allport* v. *Murphy,* 153 Mich. 486, 116 N. W. 1070. *Fallis* v. *City of Gas City,* 169 Ind. 508, 82 N. E. 1056. *Contra*: *State* v. *Bristow,* 131 Ia. 664, 109 N. W. 199. In the last named case, the legislature had sought to bring "itinerant vendors selling by samples or taking orders, whether for immediate or future delivery" under the operation of a statute regulating peddlers. A tea company salesman, like the one in the principal case, was held not to be a peddler under that statute: it was held that a peddler and an itinerant vendor selling from samples or taking orders for present or future delivery are not the same, in spite of the legislative enactment. This case seems to be followed in the principal case. The words of the ordinance in question, in defining hawkers, seem to be broad enough and fairly easy of application; but the court decided that defendant was not a hawker, not by applying the definitions laid down in the ordinance itself, but by authority *aliunde.* It has been held that, in the absence of statutory definition, the determination of whether a person is a peddler or not depends upon the circumstances of each case and not upon any arbitrary rules. *Commonwealth* v. *Edson,* 2 Pa. Co. Ct. R. 377. Whether it is a coincidence, or a result of the nature of the business, the large majority of defendants in recent "peddler" cases have been so-called "Tea Companies;" and the courts have usually been ready to hold "peddler" ordinances applicable to them. *City of Muskegon* v. *Zeeryp,* 134 Mich. 181, 96 N. W. 502, *City of Alma* v. *Clow,* 146 Mich. 443, 109 N. W. 853, *Fallis* v. *City of Gas City, supra, Allport* v. *Murphy, supra, State* v. *Bristow, supra,* and the principal case seem to be exceptions in this regard.

NEGLIGENCE—AUTOMOBILES—CARE REQUIRED—DUTY TO WARN.—Plaintiff, a physician, desired to purchase an automobile. Defendant sent a machine with a demonstrator. It became necessary to crank the car, and plaintiff inquired if he could do it, to which the demonstrator replied, "Yes, anybody can crank

a car," whereupon plaintiff took hold of the crank, and the demonstrator told him "to push it in and turn it." Plaintiff turned the crank as instructed, and the force of the engine released the crank from plaintiff's hand and whirled it in such a manner as to break his arm. *Held,* that plaintiff in cranking car was not a mere licensee or volunteer, but an invitee, acting by the implied invitation of the demonstrator, who, knowing plaintiff's inexperience, was negligent in failing to warn him of the danger, for which negligence defendant was liable. *Martin* v. *Maxwell-Brisco Motor Vehicle Co.* (Mo. 1911), 138 S. W. 65.

To the plaintiff in the capacity of an invitee, the defendant or his agent owed the duty of ordinary care and reasonable diligence. *Indemaur* v. *Dames,* L. R. 1 C. P. 274, 288; *Nash* v. *Minneapolis M. Co.,* 24 Minn. 501, 31 Am. Rep. 349; and when entrance upon dangerous ground or the use of a dangerous article or machine is involved in the invitation, care commensurate with the danger, including the obligation to warn the invitee, is imposed on the owner or occupier. *Huset* v. *J. I. Case Threshing Machine Co.,* 120 Fed. 865, 61 L. R. A. 303; *Lewis* v. *Terry,* 111 Cal. 39, 43 Pac. 398, 31 L. R. A. 220. Although the automobile as such now is considered not a dangerous machine, *Steffen* v. *McNaughton,* 142 Wis. 49, 124 N. W. 1016; *McIntyre* v. *Orner,* 166 Ind. 57, 76 N. E. 750, 4 L. R. A. (N. S.) 1130; HUDDY, AUTOMOBILES, Ed. 2, p. 33; and not in the same category as locomotives, dynamite, and similar dangerous agencies, *Jones* v. *Hoge,* 47 Wash. 663, 92 Pac. 433, 14 L. R. A. (N. S.) 216, 125 Am. St. Rep. 915; nor in the same class as "bad dogs, vicious bulls, evil-disposed mules and the like," *Lewis* v. *Amorous,* 3 Ga. App. 50, 59 S. E. 338; *Vincent* v. *Crandall & Godley Co.,* 115 N. Y. Supp. 600; *Berman* v. *Schultz,* 81 N. Y. Supp. 647; yet it is obvious that a part of a motor vehicle, under certain circumstances, may become a dangerous instrument. But conceding that the plaintiff was an invitee, and the auto-crank potentially dangerous, a point of view different from that taken by the Missouri court seems at least not unreasonable. For the fact that a man is an invitee does not relieve him from the duty of exercising ordinary care to protect himself from obvious dangers, *Holwerson* v. *St. Louis & S. Ry. Co.,* 157 Mo. 216, 57 S. W. 770, 50 L. R. A. 850; and notice or warning of the dangerous character of an article is not necessary when the article is not new or unknown. *Gibson* v. *Torbet,* 115 Ia. 163, 88 N. W. 443, 56 L. R. A. 98, 91 Am. St. Rep. 147, following the latter rule, held a druggist who sold a customer phosphorus upon request for that article, without special warning of its perilous qualities, not liable for injuries to the customer resulting from its careless use. If the argument of that case be applied, and the general public be deemed conversant with the nature of phosphorus, it seems possible that, in legal contemplation, a man of intelligence, probably well acquainted with modern progress, might be held to such knowledge of an instrument so common as an auto-crank, that the lack of special warning of its dangerous possibilities would not be presumed actionable negligence.

OFFICERS—DE FACTO OFFICERS—SALARY.—Petitioners were appointed rural policemen for Greenwood county by the Governor under authority conferred